

The Honorable James L. Robart

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

CAROLINE ANGULO, a single person, ERIC KELLER, a single person, ISABEL LINDSEY and CHARLES LINDSEY, a married couple, and CHRISTINE BASH, individually and as a personal representative of the ESTATE OF STEVEN BASH,

Plaintiffs,

V.

PROVIDENCE HEALTH & SERVICES – WASHINGTON, a non-profit Washington corporation, also d/b/a PROVIDENCE ST. MARY MEDICAL CENTER; DR. JASON A. DREYER, D.O., and JANE DOE DREYER, husband and wife and the marital community thereof; DR. DANIEL ELSKENS, D.O., and JANE DOE ELSKENS, husband and wife and the marital community thereof; and JOHN/JANE DOES 1-10, and any martial communities thereof,

Defendants.

No. 2:22-cv-00915-JLR

**PROVIDENCE'S REPLY TO
PLAINTIFFS' RESPONSE TO
MULTICARE HEALTH
SYSTEM'S MOTION TO QUASH**

**NOTED ON MOTION
CALENDAR: July 7, 2023**

1 Defendant Providence Health & Services – Washington (“Providence”) files this reply to
 2 an argument Plaintiffs raised against Providence for the first time in their response to Non-Party
 3 MultiCare Health System’s (“MultiCare”) Motion to Quash. Specifically, Plaintiffs ask that the
 4 Court “order the costs associated with obtaining the MultiCare discovery and patient data
 5 information be shared by Providence and the Plaintiffs equally.” Dkt. 96 at 11. Plaintiffs’
 6 request that the Court compel Providence to pay jurisdictional discovery/notice costs concerning
 7 MultiCare’s patients is inappropriate.

8 In its reconsideration Order, the Court agreed with Providence that Washington’s
 9 Uniform Health Care Information Act (“UHCIA”) requires Providence to provide *its* patients
 10 with advance notice before producing their names and contact information in response to
 11 discovery related to their medical treatment. Dkt. 79 at 7. The Court ordered Plaintiffs and
 12 Providence to share equally the cost of notice to *Providence* patients because such notice is
 13 required both for (1) jurisdictional discovery as to the applicability of a CAFA exception for
 14 which Plaintiffs bear the burden of proof and (2) to fulfill Providence’s obligations under the
 15 UHCIA to *its* patients who might be proposed class members. Dkt. 79 at 10-11.

16 By contrast, Providence has no obligations pursuant to the UHCIA to the proposed
 17 MultiCare patient class members. The Court’s rationale for having Providence share in the cost
 18 of jurisdictional discovery/notice to Providence’s patients, therefore, does not apply to costs
 19 associated with the jurisdictional discovery Plaintiffs seek from MultiCare or its patients. If the
 20 Court does not quash Plaintiffs’ subpoena to MultiCare entirely, it should order Plaintiffs to bear
 21 fully the costs in pursuit of jurisdictional discovery regarding the MultiCare patients.

22 As stated in its Response to MultiCare’s Motion to Quash, Providence believes that JND
 23 Legal Administration can effectively manage jurisdictional discovery with respect to both
 24 Providence’s and MultiCare’s patients (subject to MultiCare’s approval) if the Court does not
 25 quash Plaintiffs’ subpoena in full. Dkt. 95. Further, costs for JND as administrator can be split
 26 by Providence and Plaintiffs for the Providence patients at issue, and borne solely by Plaintiffs
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1 for the MultiCare patients at issue, in proportion to the number of Providence patients as
 2 compared to the number of MultiCare patients in the overall notice program. Such an
 3 arrangement avoids requiring Providence to bear jurisdictional discovery costs with respect to
 4 MultiCare patients to whom it has no notice responsibilities under the UHCIA.

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6 DATED this 7th day of July, 2023.

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DAVIS WRIGHT TREMAINE LLP

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*Attorneys for Defendant Providence Health &
 Services – Washington*

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1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on this day, I had the foregoing electronically filed with the Clerk of
3 the Court using the CM/ECF system, which will send notification of such filing to those attorneys
4 of record registered on the CM/ECF system. All other parties (if any) shall be served in accordance
5 with the Federal Rules of Civil Procedure.

6 DATED: July 7, 2023

7 *s/Kenneth E. Payson*
8 Kenneth E. Payson, WSBA #26369